

AMENDED IN SENATE AUGUST 30, 2005

AMENDED IN SENATE JULY 5, 2005

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AMENDED IN ASSEMBLY APRIL 5, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 76

Introduced by Assembly Members Frommer and Chan
(Coauthors: Assembly Members Baca, Bass, Berg, Cohn, Coto,
De La Torre, Evans, Goldberg, Gordon, Hancock, Klehs,
Koretz, Leno, Levine, Lieber, Nava, Pavley, Ridley-Thomas,
Ruskin, Saldana, and Torrico)
(Coauthor: Senator Alquist)

January 3, 2005

An act to amend Section 12803 of, to add Part 5.4 (commencing with Section 14570) to, and to repeal Chapter 12 (commencing with Section 14977) of Part 5.5 of Division 3 of Title 1 of, the Government Code, relating to pharmaceuticals.

LEGISLATIVE COUNSEL'S DIGEST

AB 76, as amended, Frommer. Office of Pharmaceutical Purchasing.

Existing law authorizes the Department of General Services to enter into contracts on a bid or negotiated basis with manufacturers and suppliers of single-source or multisource drugs, and authorizes the department to obtain from them discounts, rebates, or refunds as permissible under federal law. Existing law requires 4 state agencies

to participate in the program and authorizes other state, local, and public agency governmental entities to elect to participate in the program. Existing law grants the Department of General Services authority with respect to contracting with a pharmaceutical benefits manager or other entity and exploring additional strategies for managing drug costs.

This bill would repeal these provisions. The bill would instead establish within the California Health and Human Services Agency the Office of Pharmaceutical Purchasing with authority and duties to purchase prescription drugs for state agencies similar to that granted to the Department of General Services under the above-described provisions. The bill would ~~also, however, require the office to be the purchasing agent for the California State University and any other state agency as directed by the Governor~~ *revise the state entities required to participate in the program*, would add to those entities that may elect to participate in the purchasing program, and would authorize the office to conduct specified activities in order to negotiate the lowest prices possible for prescription drugs.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12803 of the Government Code is
- 2 amended to read:
- 3 12803. (a) The California Health and Human Services
- 4 Agency consists of the following departments: Health Services;
- 5 Mental Health; Developmental Services; Social Services;
- 6 Alcohol and Drug Abuse; Aging; Rehabilitation; and Community
- 7 Services and Development.
- 8 (b) The agency also includes the Office of Statewide Health
- 9 Planning and Development and the State Council on
- 10 Developmental Disabilities.
- 11 (c) The Department of Child Support Services is hereby
- 12 created within the agency commencing January 1, 2000, and
- 13 shall be the single organizational unit designated as the state's
- 14 Title IV-D agency with the responsibility for administering the
- 15 state plan and providing services relating to the establishment of
- 16 paternity or the establishment, modification, or enforcement of
- 17 child support obligations as required by Section 654 of Title 42

1 of the United States Code. State plan functions shall be
2 performed by other agencies as required by law, by delegation of
3 the department, or by cooperative agreements.

4 (d) The Office of Pharmaceutical Purchasing is hereby
5 established within the agency and shall purchase prescription
6 drugs for state agencies pursuant to Part 5.4 (commencing with
7 Section 14570).

8 SEC. 2. Part 5.4 (commencing with Section 14570) is added
9 to Division 3 of Title 1 of the Government Code, to read:

10
11 PART 5.4. OFFICE OF PHARMACEUTICAL PURCHASING

12
13 14570. As used in this part, “office” means the Office of
14 Pharmaceutical Purchasing within the California Health and
15 Human Services Agency.

16 14571. (a) Notwithstanding any other provision of law, the
17 office may enter into exclusive or nonexclusive contracts on a
18 bid or negotiated basis with manufacturers and suppliers of
19 single-source or multisource drugs. The office may obtain from
20 those manufacturers and suppliers, discounts, rebates, or refunds
21 based on quantities purchased insofar as permissible under
22 federal law. Contracts entered into pursuant to this part may
23 include price discounts, rebates, refunds, or other strategies
24 aimed at managing escalating prescription drug prices.

25 (b) Contracts under this part shall be exempt from Chapter 2
26 (commencing with Section 10290) of Part 2 of Division 2 of the
27 Public Contract Code.

28 14572. (a) The office shall be the purchasing agent for
29 prescription drugs for all of the following state entities:

30 (1) Department of Corrections *and Rehabilitation*.

31 (2) State Department of Mental Health.

32 ~~(3) Department of the Youth Authority.~~

33 ~~(4)~~

34 (3) State Department of Developmental Services.

35 ~~(5)~~

36 (4) California State University.

37 ~~(6) Any other state agency as directed by the Governor.~~

38 (b) Any state, district, county, city, municipal, school district,
39 or public agency governmental entity, other than a state entity
40 specified in subdivision (a), or joint powers agreement or trust

1 that administers or pays public ~~employee benefits, or public~~
2 ~~agency governmental entity, other than a state entity specified in~~
3 ~~subdivision (a), may elect to employee benefits, may elect to~~
4 participate in the coordinated purchasing program.

5 14573. (a) It is the intent of the Legislature that the office,
6 the University of California, and the Public Employees'
7 Retirement System regularly meet and share information
8 regarding each agency's procurement of prescription drugs in an
9 effort to identify and implement opportunities for cost savings in
10 connection with this procurement. It is the intent of the
11 Legislature that the University of California and the Public
12 Employees' Retirement System cooperate with the office in order
13 to reduce each agency's costs for prescription drugs.

14 (b) The office shall do all of the following:

15 (1) Share information on a regular basis with the University of
16 California and the Public Employees' Retirement System
17 regarding each agency's procurement of prescription drugs,
18 including, but not limited to, prices paid for the same or similar
19 drugs and information regarding drug effectiveness.

20 (2) Identify opportunities for the office, the University of
21 California, and the Public Employees' Retirement System to
22 consolidate drug procurement or engage in other joint activities
23 that will result in cost savings in the procurement of prescription
24 drugs.

25 (3) Participate in at least one independent association that
26 develops information on the relative effectiveness of prescription
27 drugs. *The office shall only use information from the association*
28 *that does all of the following:*

29 (A) *Employs a research methodology that is open to public*
30 *comment.*

31 (B) *Fully discloses its findings and research methodology.*

32 (C) *Acknowledges that no conclusion can be made about*
33 *effectiveness if sufficient evidence is not available.*

34 (D) *Has been eligible for review by appropriate specialists*
35 *qualified to review medical literature, and by patient advocates.*

36 (E) *Considers any available good quality peer-reviewed*
37 *studies and good quality observational studies that provide*
38 *research evidence on the comparative effectiveness, safety, and*
39 *effect on subpopulations of prescription drugs, and good quality*

1 *studies that link patient preferences to improved health*
2 *outcomes.*

3 *(F) Considers good quality peer-reviewed research evidence*
4 *that documents variations among individuals of differing age,*
5 *gender, race, and ethnic subpopulations.*

6 *(4) Pursue opportunities, in consultation with the agencies*
7 *listed in subdivision (a) of Section 14572, for the state to achieve*
8 *savings through the appropriate use of generic drugs.*

9 ~~(4)~~

10 *(5) No later than January 1, 2007, and annually thereafter,*
11 *develop a workplan that includes, but is not limited to, a*
12 *description of the office's annual activities to reduce the state's*
13 *costs for prescription drugs and an estimate of cost savings.*

14 ~~(5)~~

15 *(6) No later than January 10, 2007, and annually thereafter,*
16 *report to the Chairperson of the Joint Legislative Budget*
17 *Committee and the chairs of the fiscal committees and the*
18 *appropriate policy committees of the Legislature on any joint*
19 *activities of the office, the University of California, and the*
20 *Public Employees' Retirement System in the last 12 months in*
21 *connection with procurement of prescription drugs and any*
22 *resulting cost savings. This report shall include the workplan*
23 *prescribed in paragraph (4). Legislature on activities that have*
24 *been or will be undertaken pursuant to this part. The report shall*
25 *include, but not be limited to, all of the following:*

26 *(A) The number and a description of contracts entered into*
27 *with manufacturers and suppliers of drugs pursuant to Section*
28 *14571, including any discounts, rebates, or refunds obtained.*

29 *(B) The number and a description of entities that elect to*
30 *participate in the coordinated purchasing program pursuant to*
31 *subdivision (b) of Section 14572.*

32 *(C) A description of any joint activities of the office, the*
33 *University of California, and the Public Employees' Retirement*
34 *System in the previous 12 months in connection with the*
35 *procurement of prescription drugs.*

36 *(D) Other options and strategies that have been or will be*
37 *implemented pursuant to this part.*

38 *(E) Estimated costs and savings attributable to activities that*
39 *have been or will be undertaken pursuant to this part.*

1 (F) *The workplan the office is required to develop pursuant to*
2 *paragraph (5).*

3 (c) Nothing in this section shall be construed to require sharing
4 of information that is prohibited by any other provision of law or
5 contractual agreement, or the disclosure of information that may
6 adversely ~~effect~~ *affect* potential drug procurement by any state
7 agency.

8 14574. (a) In order to negotiate the lowest prices possible for
9 prescription drugs for purposes of this part, the office may do all
10 of the following:

11 (1) Establish a formulary or formularies for state programs in
12 consultation with the affected agencies.

13 (2) Pursue all opportunities for the state to achieve savings
14 through the federal 340B program, as established under Section
15 340B of the Public Health Service Act (42 U.S.C. Sec. 256b),
16 including the development of cooperative agreements with
17 entities covered under the 340B program that increase access to
18 340B program prices for individuals receiving prescription drugs
19 through programs in departments described in Section 14572.

20 (3) Develop an outreach program to ensure that hospitals,
21 clinics, and other eligible entities participate in the program
22 authorized under Section 340B of the Public Health Service Act
23 (42 U.S.C. Sec. 256b).

24 (b) The office, in consultation with the agencies listed in
25 subdivision (a) of Section 14572, may investigate and implement
26 other options and strategies to achieve the greatest savings on
27 prescription drugs with prescription drug manufacturers and
28 wholesalers.

29 (c) The office shall ~~develop a system to~~ ensure that the net
30 price paid for prescription drugs, after any rebates or other
31 utilization discounts, results in the state achieving the greatest
32 savings possible on prescription drugs.

33 14575. The office may appoint and contract with a
34 pharmaceutical benefits manager or other entity for purposes of
35 the prescription drugs purchased under this part. The
36 pharmaceutical benefits manager or other entity may do all of the
37 following:

38 (a) Negotiate price discounts, rebates, or other options that
39 achieve the greatest savings on prescription drugs with
40 prescription drug manufacturers and wholesalers.

1 (b) Purchase prescription drugs for participating state, district,
2 county, or municipal governmental entities.

3 (c) Act as a consultant to the office.

4 14576. The office may explore additional strategies for
5 managing the increasing costs of prescription drugs, including,
6 but not limited to, all of the following:

7 (a) Coordinating programs offered by pharmaceutical
8 manufacturers that provide prescription drugs for free or at
9 reduced prices.

10 (b) Studying the feasibility and appropriateness of including in
11 the bulk purchasing programs entities in the private sector,
12 including employers, providers, and individual consumers.

13 (c) Implementing other strategies, as permitted under state and
14 federal law, aimed at managing escalating prescription drug
15 prices.

16 ~~14577. On or before February 1, 2007, and annually~~
17 ~~thereafter, the office shall submit a report to the appropriate~~
18 ~~policy and fiscal committees of the Legislature on activities that~~
19 ~~have been or will be undertaken pursuant to this part. The report~~
20 ~~shall include, but not be limited to, all of the following:~~

21 ~~(a) The number and a description of contracts entered into~~
22 ~~with manufacturers and suppliers of drugs pursuant to Section~~
23 ~~14571, including any discounts, rebates, or refunds obtained.~~

24 ~~(b) The number and a description of entities that elect to~~
25 ~~participate in the coordinated purchasing program pursuant to~~
26 ~~subdivision (b) of Section 14572.~~

27 ~~(c) Other options and strategies that have been or will be~~
28 ~~implemented pursuant to Sections 14573 and 14575.~~

29 ~~(d) Estimated costs and savings attributable to activities that~~
30 ~~have been or will be undertaken pursuant to this part.~~

31 SEC. 3. Chapter 12 (commencing with Section 14977) of Part
32 5.5 of Division 3 of Title 1 of the Government Code is repealed.